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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,037	08/30/2001	Thomas Seitz	514413-3894	8456

20999 7590 03/22/2004

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NEW YORK, NY 10151

EXAMINER

TRUONG, TAMTHOM NGO

ART UNIT PAPER NUMBER

1624

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20040318

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Commissioner for Patents

BONA FIDE NON-RESPONSIVE AMENDMENT

The reply filed on 12-09-03 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): applicant did not elect a group from the restriction requirement. See 37 CFR 1.111.

Applicant proposed an election of species in place of the restriction requirement since in applicant's opinion, there is no evidence of a burdensome search. The evidence of a burdensome search was provided in the last office action (i.e., preliminary CAS search of the core of *-C(=O)-phenyl*). Note, everything else connected to the *phenyl* ring is a variable, and broadly defined. For example, the ring having Z-Y varies from 5- to 6- membered heterocycle with a combination of multiple heteroatoms selected from O, S, N-H, N-(C₁-C₄)-alkyl, CHR⁵, C(R⁵)₂. Thus, a search for the ring having Z-Y requires looking up the entire classes of 544, 546, 548, and 549, not to mention the herbicide class of 504. Furthermore, the collective variables of C¹(C²)_q(C³)_o can represent a monocycle, a bicycle, or a tricycle, all of which require a search in additional classes such as: 540, 558, 560, etc. Another word, the burden of searching exists because the claimed formula (I) belongs to practically every class and subclass in the US classification for organic compounds !!! It would be impossible to carry out a complete search without a restriction.

Therefore, applicant is advised that the reply to the restriction requirement to be complete must **include an election of the invention** to be examined even though the requirement be traversed (37 CFR 1.143).

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer,

within which to supply the omission or correction in order to avoid abandonment.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M-T (~10 am ~ 8:30 pm) starting from February 22nd, 2004.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached at 571-272-0674. If you are unable to reach Dr. Shah within a 24 hour period, please contact James O. Wilson, Acting SPE of 1624, at 571-272-0661. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



T. Truong

March 18, 2004



RICHARD L. RAYMOND
PRIMARY EXAMINER
ART UNIT 1624